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# Monitoring the implementation of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities

## Note by the Secretary-General

1. At its forty-eighth session, the General Assembly adopted the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, contained in the annex to its resolution 48/96 of 20 December 1993.

2. In section IV, paragraph 2, of the Rules, it is stipulated that the Rules shall be monitored within the framework of the sessions of the Commission for Social Development. The appointment of a Special Rapporteur to monitor their implementation within the framework of the Commission for Social Development was also envisaged in that paragraph.

3. In March 1994, the Secretary-General appointed Mr. Bengt Lindqvist (Sweden) as Special Rapporteur. The Special Rapporteur prepared a report for the consideration of the Commission for Social Development at its thirty-fourth session. On the basis of that report and the findings of the Commission's working group, the Commission adopted resolution 34/2, entitled "Monitoring the implementation of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities".[1] In that resolution, the Commission took note with appreciation of the report of the Special Rapporteur and of his recommendations, and welcomed his general approach to monitoring, including the emphasis to be placed on advice and support to States in the implementation of the Rules.

4. In section IV, paragraph 12, of the Rules, it is further stipulated that at its session following the end of the Special Rapporteur's mandate, the Commission should examine the possibility of either renewing that mandate, appointing a new Special Rapporteur or considering another monitoring mechanism, and should make appropriate recommendations to the Economic and Social Council.

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The present mandate of the Special Rapporteur will come to an end in 1997. The Commission is requested to make its recommendations in that regard to the Economic and Social Council and the General Assembly.

5. The final report of the Special Rapporteur on monitoring the implementation of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, is annexed to the present note.

Notes

[1] Official Records of the Economic and Social Council, 1995, Supplement No. 4 (E/1995/24), chap. I, sect. E.

ANNEX

Final report of the Special Rapporteur of the Commission for Social Development on monitoring the implementation of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities

CONTENTS


| | | Paragraphs | Page |
|---|---|---|---|
| I. | INTRODUCTION | 1 - 5 | 5 |
| II. | BACKGROUND AND FRAMEWORK FOR THE ACTIVITY | 6 - 22 | 5 |
| | A. Background | 6 - 10 | 5 |
| | B. The monitoring mechanism | 11 - 14 | 6 |
| | C. Meetings of the panel of experts | 15 - 21 | 7 |
| | D. Guidelines issued by the Commission for Social Development | 22 | 8 |
| III. | ACTIVITIES OF THE UNITED NATIONS SYSTEM | 23 - 33 | 9 |
| | A. Human rights and disability | 24 | 9 |
| | B. Disability statistics programme of the Statistical Division of the Department for Economic and Social Information and Policy Analysis | 25 - 26 | 10 |
| | C. United Nations Children's Fund | 27 | 10 |
| | D. International Labour Organization | 28 | 11 |
| | E. United Nations Educational, Scientific and Cultural Organization | 29 - 32 | 11 |
| | F. World Health Organization | 33 | 12 |
| IV. | ACTIVITIES OF NON-GOVERNMENTAL ORGANIZATIONS | 34 - 41 | 12 |

CONTENTS (continued)


| | Paragraphs | Page |
|---|---|---|
| V. ACTIVITIES OF THE SPECIAL RAPPORTEUR | 42 - 128 | 13 |
| A. Promoting implementation of the Standard Rules | 42 - 49 | 13 |
| 1. Meetings with Governments | 43 - 46 | 14 |
| 2. Conferences | 47 - 48 | 14 |
| 3. Correspondence and communications | 49 | 15 |
| B. Surveying progress | 50 - 103 | 15 |
| 1. First survey | 50 - 53 | 15 |
| 2. Second survey | 54 - 59 | 16 |
| (a) General policy | 60 - 65 | 17 |
| (b) Legislation: rule 15 | 66 - 75 | 18 |
| (c) Accessibility: rule 5 | 76 - 86 | 20 |
| (d) Organizations of persons with disabilities: rule 18 | 87 - 95 | 22 |
| (e) Coordination of work: rule 17 | 96 - 103 | 23 |
| C. Related surveys - education: rule 6 | 104 - 116 | 24 |
| 1. Legal regulation of the right to special education | 110 - 111 | 25 |
| 2. Parents' role | 112 | 26 |
| 3. Education forms and the issue of integration | 113 | 26 |
| 4. Special education legislation | 114 - 116 | 26 |
| D. Related survey - employment: rule 7 | 117 - 128 | 27 |
| 1. Summary of rule 7 | 117 - 128 | 27 |
| 2. ILO Convention No. 159 | 121 - 128 | 28 |
| VI. CONCLUSIONS AND RECOMMENDATIONS | 129 - 152 | 29 |

# I. INTRODUCTION

1. In his capacity as Special Rapporteur for monitoring the implementation of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, the Special Rapporteur has the honour to deliver his final report to the Commission for Social Development. It has been a privilege and a stimulating task for him to act as Special Rapporteur in this area. He wishes to express his sincere appreciation to the Secretary-General for showing confidence in him by appointing him to this important task. He would also like to thank all the Governments that have contributed financially to this project, including the Swedish Government, which has provided him with office resources throughout the entire exercise.

2. From the beginning, and during the whole monitoring activity, the Special Rapporteur has enjoyed the full support of Under-Secretary-General Nitin Desai, and excellent professional advice given by Mr. A. Krassowski and his group in the Department of Policy Coordination and Sustainable Development. He also wishes to express his appreciation for the excellent work performed by his colleagues in his Swedish office.

3. One key element in the monitoring exercise was the panel of experts, established by six major international non-governmental organizations in the disability field. The panel members, five men and five women with different experiences regarding disability, provided valuable guidance. They were also very understanding when limited resources made it impossible to pursue all good ideas and initiatives.

4. Finally the Special Rapporteur wishes to thank all those Governments and non-governmental organizations that provided information for his work.

5. The Special Rapporteur has chosen to describe the entire monitoring exercise. However, as he had delivered an interim report to the Commission for Social Development at its thirty-fourth session, the first year's activities are summarized in the present report. To illustrate how widespread the Standard Rules have become, he has included brief information about activities undertaken by specialized agencies of the United Nations and by non-governmental organizations in the disability field. The main emphasis in the report is on recent activities and on the second extensive survey, which was a main activity during 1996. In the final section of the report - Conclusions and recommendations - he has presented the observations he made during the work on this most stimulating task.

# II. BACKGROUND AND FRAMEWORK FOR THE ACTIVITY

## A. Background

6. To fully understand the importance of the Standard Rules it is necessary to go back to the events that began with the proclamation of 1981 as the International Year of Disabled Persons. Of particular importance in this context was the adoption by the General Assembly of the theme of the Year -

"full participation and equality", which meant recognition at the highest possible political level of the right to full participation of disabled people in the societies to which they belong.

7. During the 15 years that have passed since the International Year, "full participation and equality" has been widely accepted as the overall goal of all development efforts in the disability field. The World Programme of Action concerning Disabled Persons, adopted by the General Assembly in 1982, also made significant contributions to the clarification and understanding of the policies, programmes and measures necessary to obtain that goal. One such major contribution is the new chapter on equalization of opportunities, which brings a third dimension to the field of disability.

8. During the subsequent decade of disabled persons, 1983-1992, when the policies and programmes outlined in the World Programme of Action were to be implemented, some significant developments were made. Generally, however, too little occurred. That was the major concern of the group of experts who in 1987 evaluated the outcome of the first half of the decade.

9. As a result, the international disability community requested that the United Nations should assume a strong leadership role and give more concrete guidelines for development. In response to that request, the Standard Rules were elaborated and unanimously adopted by the General Assembly in its resolution 48/96 of 20 December 1993.

10. There are mainly three things that distinguish the Standard Rules from the World Programme of Action: the Rules are more concentrated and concrete in form; they directly address the issue of Member States' responsibility; and they include an independent and active monitoring mechanism.

## B. The monitoring mechanism

11. One of the most significant features of the Standard Rules is that their implementation should be actively monitored. In section IV of the Rules there is a fairly detailed description of the monitoring mechanism. Its purpose, as set forth in section IV, paragraph 1, is

> "to further the effective implementation of the Rules. It will assist each State in assessing its level of implementation of the Rules and in measuring its progress. The monitoring should identify obstacles and suggest suitable measures that would contribute to the successful implementation of the Rules."

12. There are three actors involved in the monitoring task. The monitoring should take place within the framework of the sessions of the Commission for Social Development. A Special Rapporteur should do the actual monitoring work and report to the Commission. Finally, the non-governmental organizations in the disability field should be invited to establish among themselves a panel of experts, to be consulted by the Special Rapporteur.

13. In March 1994 the Secretary-General appointed Mr. Bengt Lindqvist (Sweden) as Special Rapporteur. In September 1994 a panel of ten experts, five men and five women, all with personal experience of various disabilities, from different parts of the world, was established by the following six international organizations: Disabled Peoples' International; Inclusion International; Rehabilitation International; World Blind Union; World Federation of the Deaf; and World Federation of Psychiatric Users.

14. A precondition for the entire monitoring exercise was that extrabudgetary funding could be raised for most of the activities. Eleven Governments altogether have contributed financially to the project. The total amount of those contributions is estimated at $650,000. A special service agreement between the Secretariat and the Special Rapporteur was signed in August 1994 for the period 1994-1997. It was agreed that the Special Rapporteur should carry out his work from a small office in Sweden and that the Secretariat would assist with advice and administrative services.

## C. Meetings of the panel of experts

15. The panel of experts has held two meetings at United Nations Headquarters in New York, the first in February 1995 and the second in June 1996. Through correspondence, members of the panel have continuously been informed and consulted by the Special Rapporteur.

16. All members of the panel attended the first meeting, in February 1995. The main purpose of the meeting was to give general advice concerning the monitoring task during the remaining two years. The panel agreed on a set of concrete recommendations, which have been very useful for the Special Rapporteur.

17. Among the recommendations, the following are of a more general importance:

(a) The relationship between existing United Nations documents in the disability field should be clarified: In the global effort to implement the overall goal of full participation and equality, the panel of experts considers the implementation of the Standard Rules to be the most important task during the next few years. The panel considers that the World Programme of Action concerning Disabled Persons is providing an important framework for action in the fields of prevention, rehabilitation and equalization of opportunities for persons with disabilities. The long-term strategy, adopted by the General Assembly in 1994, should be regarded as a useful tool in the implementation of the Standard Rules;

(b) The monitoring of the Standard Rules should be carried out in the spirit of cooperation and partnership on the international level between the United Nations and the international non-governmental organizations participating in the panel of experts, and on the national level between Governments, the national non-governmental organizations and the United Nations;

(c) Although the overall goal of the monitoring activity is to implement fully all of the 22 rules, the monitoring efforts should be concentrated on the following six areas: legislation (Rule 15); coordination of work (Rule 17);

organizations of persons with disabilities (Rule 18); accessibility (Rule 5); education (Rule 6); employment (Rule 7);

(d) Efforts should be made by the Secretariat and the Special Rapporteur to involve the specialized agencies and the regional commissions in the implementation of the Rules;

(e) Further action should be taken to increase awareness in Governments, non-governmental organizations and the United Nations system.

18. The second meeting of the panel was held in June 1996. Nine panel members were present. During the preceding months the Special Rapporteur had distributed a comprehensive questionnaire to all Member States and to national non-governmental organizations in the disability field. One major task for the panel at the second meeting was therefore to discuss the outcome of that survey. Despite the fact that the final date for submissions had expired ten weeks earlier, replies were still coming in at the time of the meeting. A broad analysis of the results had therefore not yet been started.

19. The panel gave advice on issues of special interest for the analysis and on the structure of the report. It noted with great satisfaction the high response rate to the questionnaire, which should provide the United Nations with extensive information in essential policy areas.

20. In view of the fact that only one year remained of the monitoring period, the panel started to discuss what should follow after 1997. Panel members were of the opinion that three years was a very short time for the worldwide monitoring of the implementation of such extensive policy guidelines as the Standard Rules. The panel therefore decided to recommend to its organizations that they should advocate a prolongation of the monitoring task.

21. The panel of experts also discussed how the disability component could be integrated into the implementation of the five-year follow-up plan for the World Summit for Social Development, recommended by the Commission for Social Development to the Economic and Social Council. In that context it is urgent to raise the issue of how disability measures can be included into such programmes. Following the adoption of resolution 34/2 of the Commission for Social Development, the panel decided to make the following statement:

> "The panel noted with some alarm the tendency to disregard the specific needs of individuals with disabilities within Governments, the United Nations and professional groups. This signifies the continued low priority status assigned to the individuals with disabilities on the ladder of progress. It is necessary to build the disability dimension into the existing models of Government and the United Nations in order to make laws and policies specific to the needs of individuals with disabilities."

## D. Guidelines issued by the Commission for Social Development

22. At its thirty-fourth session, in April 1995, the Commission for Social Development received the first report of the Special Rapporteur. In its

resolution 34/2 the Commission expressed its support for the approach to monitoring taken by the Special Rapporteur, which is to place emphasis on advice and support to States concerning implementation of the Standard Rules. Moreover, the Commission:

(a) Encouraged the Special Rapporteur to focus his monitoring efforts in the forthcoming two years on an appropriate number of priority areas, bearing in mind that the overall goal of the monitoring activity is to implement the Rules in their entirety;

(b) Called upon the Department for Policy Coordination and Sustainable Development, as the United Nations focal point on disability issues, the United Nations Development Programme and other entities of the United Nations system, such as the regional commissions, the specialized agencies and inter-agency mechanisms, to cooperate with the Special Rapporteur in the implementation and monitoring of the Rules;

(c) Strongly urged States and intergovernmental and non-governmental organizations to continue to cooperate closely with the Special Rapporteur and respond to his second questionnaire on implementation of the Rules;

(d) Called upon States to participate actively in international cooperation efforts concerning policies for equalization of opportunities and for improvement of living conditions of persons with disabilities in developing countries.

## III. ACTIVITIES OF THE UNITED NATIONS SYSTEM

23. In section IV, paragraph 7, of the Standard Rules, the specialized agencies and other United Nations entities are requested to cooperate with the Special Rapporteur in implementing the Rules. The following have responded positively to that request and have taken special initiatives in connection with the monitoring of the Rules.

### A. Human rights and disability

24. Since the publication in 1992 of the report by Special Rapporteur Leandro Despouy, entitled Human Rights and Disabled Persons, several activities have been initiated, including the following:

(a) In paragraph 22 of its Vienna Declaration and Program of Action the World Conference on Human Rights, held at Vienna in 1994, stated that

> "Special attention needs to be paid to ensuring non-discrimination, and the equal enjoyment of all human rights and fundamental freedoms by disabled persons, including their active participation in all aspects of society";

(b) The Subcommission on Prevention of Discrimination and Protection of Minorities, in paragraph 1 of its resolution 1995/17 of 18 August 1995,

requested the Secretary-General to report in 1996 to the Subcommission regarding coordination endeavours that affect persons with disabilities, with emphasis on activities of the other United Nations organizations and bodies that deal with alleged violations of human rights;

(c) In May 1996 the following three Committees reported activities in the field of human rights and disability: Committee on the Rights of the Child; Committee on Economic, Social and Cultural Rights; and Committee on the Elimination of Discrimination against Women;

(d) In all these areas the analysis concerning the protection of the human rights of persons with disabilities has been started. Of particular interest is General Comment No. 5 (1994), issued by the Committee on Economic, Social and Cultural Rights. In its analysis the Committee also related the situation of disabled persons to the general trends of development and discussed necessary means for the protection of the rights of persons with disabilities;

(e) Finally, the Commission on Human Rights, in paragraph 5 of its resolution 1996/27 of 19 April 1996, entitled "Human Rights of persons with disabilities", urged all Governments to implement, with the cooperation and assistance of organizations, the Standard Rules on the Equalization of Opportunities for Persons with Disabilities.

## B. Disability statistics programme of the Statistical Division of the Department for Economic and Social Information and Policy Analysis

25. The Standard Rules draw attention to the importance of statistical data on the living conditions of persons with disabilities and to the fact that the collection of such data should be undertaken at regular intervals as part of the official statistical system of countries.

26. The work is concentrated on three main issues:

(a) Together with States and other participants, improve the methodology for the collection of data by standardizing concepts of disability and establishing new and more effective procedures for the collection of data;

(b) Compile existing data into a database (Distat);

(c) Cooperate with the growing numbers of users of data on disability, such as planning agencies, research institutes and non-governmental organizations.

## C. United Nations Children's Fund

27. The headquarters of the United Nations Children's Fund (UNICEF) took an active role in disseminating copies of the Standard Rules in English and other languages to over 150 UNICEF regional and country offices. In addition to the Convention on the Rights of the Child and the UNICEF policy paper on children in

need of special protection measures, UNICEF officials have also used the Standard Rules in their promotion of human rights and improved conditions for the children of the world.

## D. International Labour Organization

28. As the Special Rapporteur, in consultation with the panel of experts, had decided to study employment policies as one of six selected Rule areas, and as it was considered important to bring up the issue of employment in the final report of the monitoring, the International Labour Organization (ILO) offered to make available data on the monitoring of ILO Convention No. 159, ratified by 56 countries. The material contains Government reports and communication between Governments and ILO experts concerning the practical application of the various articles of the Convention. For the Special Rapporteur's analysis, six articles in the Convention were selected, which all have corresponding sections in Rule 7 on employment. For a summary of the results, see section V.D in the present report. In addition, beginning in 1997, ILO will carry out a general survey of the law and practice of Member States that have ratified Convention No. 159. The results of this extensive survey will be presented to the International Labour Conference in 1998.

## E. United Nations Educational, Scientific and Cultural Organization

29. Since 1980, the United Nations Educational, Scientific and Cultural Organization (UNESCO) has collected information on practice in special education. The latest review, published in 1995, concerns 1993-1994. A great deal of the collected information is highly relevant to the monitoring of Rule 6 on education. According to UNESCO, that study is to be seen as a UNESCO contribution to the monitoring of the Standard Rules.

30. Moreover, UNESCO carried out a study on legislation pertaining to special needs education. The information, provided by 52 countries, was compiled in 1994 and published in 1996.

31. In 1994 UNESCO organized the World Conference on Special Needs Education at Salamanca, Spain. More than 90 countries were represented. The Conference adopted the Salamanca Statement and Framework for Action, which builds on and develops the guidelines in Rule 6 of the Standard Rules.

32. In 1995 the issue of special needs education was on the agenda of the UNESCO Conference. The Special Rapporteur had the opportunity to address the Conference in his official capacity. In his statement he emphasized the importance of implementing the guidelines presented in the Standard Rules and the Salamanca Statement, which are in harmony with each other in all essential areas.

### F. World Health Organization

33. As a World Health Organization (WHO) contribution to the monitoring of the Standard Rules, the Special Rapporteur and the members of the panel of experts from developing countries were invited to participate in the meeting of WHO regional advisers for rehabilitation, which took place at Geneva in January 1996. The role of WHO in the implementation of the Standard Rules was discussed. Among the recommendations made at the meeting were the following:

(a) WHO should promote the general spirit and direction regarding human rights as stated in the Standard Rules, taking responsibility for monitoring rules 2 and 3 and, partially, rule 4;

(b) WHO should promote a multi-sectoral approach to the analysis of the disability situation in developing countries so that appropriate national policies to guide programme planning can be developed;

(c) WHO should promote the inclusion of organizations of persons with disabilities in the development, implementation, monitoring and evaluation of country-based resources programmes;

(d) Collaboration at the national, regional and international levels should be increased to intensify the fight for and to end discrimination against, persons with disabilities;

(e) A media campaign about disability issues and the Standard Rules should be promoted with the collaboration of various public sectors, non-governmental organizations and organizations of persons with disabilities.

## IV. ACTIVITIES OF NON-GOVERNMENTAL ORGANIZATIONS

34. The major international non-governmental organizations in the disability field were, from the very beginning, actively involved in the elaboration of the Standard Rules. Even though some parts of the Rules were agreed upon through compromise, it is important to note that the international non-governmental organizations fully supported the adoption of the Rules.

35. The unique form of cooperation, where non-governmental organizations, upon the invitation of the United Nations, established a panel of experts to serve as part of the monitoring exercise, meant a direct involvement of those organizations in the actual monitoring process.

36. The six international non-governmental organizations represented in the panel and a considerable number of other organizations have organized many different activities to support the implementation of the Rules. Several organizations have assembled users' guides and information kits to assist member organizations in the utilization of the Rules. Those materials are being extensively used both on national and regional levels.

37. The Rules have been presented in articles in many of the organization magazines. In some cases series of articles have been published.

38. At practically all important events organized by the major non-governmental organizations, the issue of implementing the Standard Rules has been part of the programme.

39. The major non-governmental organizations have worked together at all the recent world conferences organized by the United Nations, including the Social Summit, to ensure that the implementation of the Standard Rules was included in declarations and reports issued by those conferences.

40. The following quotation from subparagraph 75 (k) of the report of the World Summit for Social Development may serve as an example of what was obtained through those activities:

> "75. Governmental responses to special needs of social groups should include:
>
> "(k) Promoting the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities and developing strategies for implementing the Rules. Governments, in collaboration with organizations of people with disabilities and the private sector, should work towards the equalization of opportunities so that people with disabilities can contribute to and benefit from full participation in society. Policies concerning people with disabilities should focus on their abilities rather than their disabilities and should ensure their dignity as citizens".[1]

41. The non-governmental organizations have brought up the issue of integrating the disability component, built on the Standard Rules, into the mainstream activities of the various United Nations agencies.

## V. ACTIVITIES OF THE SPECIAL RAPPORTEUR

### A. Promoting implementation of the Standard Rules

42. In accordance with the purpose of the monitoring - to further the effective implementation of the Rules - the Special Rapporteur has endeavoured to use all available opportunities to present the Rules, their background, message and function. During the 30 months since he began monitoring in August 1994, he has had discussions with 20 individual Governments, of which 15 were of developing countries or countries in transition. On all those occasions he has also involved the national organizations of disabled people. He has participated in about 35 international conferences and has held meetings with all the major United Nations agencies with responsibilities in the disability field. During the entire monitoring exercise he has had extensive correspondence and communication with numerous individuals, who in different ways have been involved in the monitoring task.

## 1. Meetings with Governments

43. Meetings with individual Governments have been initiated mainly in two ways. In many cases the Special Rapporteur has been invited directly by Governments interested in discussing various aspects of the implementation of the Rules. In some cases the Special Rapporteur has suggested to Governments that a meeting should be held, as he was attending a conference in the country or in a neighbouring one.

44. The character of the talks has varied, owing to the situation in the particular country. In some cases Governments wished to present their new initiatives in the disability field to the Special Rapporteur and discuss various aspects of implementation (Japan, China, Mexico, India). Other visits have been made to countries in transition, where Governments wished to discuss how the disability issue could be integrated into the reconstruction or reorientation of governmental policy (South Africa, the Palestinian Authority, Estonia, the former Yugoslav Republic of Macedonia, the Czech Republic).

45. In some cases the Special Rapporteur's visit has resulted in written recommendations for future measures (the former Yugoslav Republic of Macedonia, the Czech Republic).

46. During all these visits, the Special Rapporteur has established contacts with existing organizations of disabled people and tried to involve other organizations and agencies in the disability field. The representatives of organizations of disabled persons have, in some cases, been invited by their Governments to participate in his deliberations with various ministries. The general impression of the Special Rapporteur is that his visits have often vitalized the dialogue between Governments and organizations. In some cases he has been able to suggest new initiatives to the organizations. In a few cases he has functioned as a mediator, suggesting a compromise. Such mediation has often concerned the establishment of a coordinating council, the composition and function of such a body.

## 2. Conferences

47. In view of the great importance of the non-governmental organizations in the disability field in advocating the implementation of the Standard Rules, the Special Rapporteur has given high priority to his participation in major events organized by such organizations. In fact, he has attended almost all world congresses and assemblies arranged by the six organizations constituting the panel of experts. He has also attended numerous other international conferences. Some of those conferences have been jointly organized by Governments, specialized agencies and non-governmental organizations. A very useful type of conference for promoting the implementation of the Standard Rules has been the regional conference, with the participation of Governments and organizations. One such regional conference, held at Abidjan was of particular interest, as it was organized jointly by the three specialized agencies, ILO, UNESCO and WHO, in collaboration with UNDP. Participants came from Governments, organizations and the agencies referred to.

48. The participation of the Special Rapporteur has usually consisted in a general presentation of the Standard Rules, often followed by a workshop or a seminar where various aspects of the implementation work have been discussed. Through his participation at so many international meetings, the Special Rapporteur has reached numerous persons with different functions from a large number of countries with his message. At some of the world congresses organized by the international non-governmental organizations, more than 100 countries have been represented. Finally, he has also been invited to speak at universities, county councils, research seminars and seminars on development cooperation.

### 3. Correspondence and communications

49. The correspondence in connection with the Special Rapporteur's various activities has been extensive. He has been asked to send written statements, which have been used in various texts. He has written a number of articles for magazines for the international non-governmental organizations, WHO and the European Union. He has provided advice concerning various implementation aspects, and in some cases people have raised individual issues with him. Owing to the extensive network of contacts he has developed during the monitoring task, the Special Rapporteur has often handled requests for speakers on the Standard Rules for various meetings and conferences.

## B. Surveying progress

### 1. First survey

50. In November 1994 a first letter from the Special Rapporteur to Governments was distributed to Member States. The letter contained four general questions concerning the reception of the Rules by Governments and other interested entities in the countries.

51. A country-by-country summary of all the replies was made and attached to the first report to the Commission. The following highlights might be noted:

(a) Most Governments indicated either that they had already acted in the spirit of the Rules or that they were drafting new policies in accordance with them;

(b) Many countries had translated the Rules into their native language, even in countries with more than one language;

(c) Many countries already had national coordination committees. In others, such bodies were being created. Throughout the replies, there was strong emphasis on the active participation by organizations of disabled persons in developing policies and programmes in the disability field;

(d) Many countries expressed the wish to receive more information, especially about the activities in the disability field in other countries;

(e) Some countries had already adopted, or were drafting, legislation or other documents using the principles of the Rules;

(f) In some countries the Rules were used in awareness-raising campaigns;

(g) One country was planning to develop an e-mail forum for the Rules;

(h) Several new bodies or institutions were created with various functions but with the common purpose of supporting the implementation of the Rules, for example, a High Commissioner on Disability (Morocco), a Disability Ombudsman (Sweden), an Equal Opportunities Centre (Denmark), a Special Committee of State Secretaries (Norway) and a Foundation to promote development in the disability field, with income from taxation on gambling (Estonia).

52. The first letter was distributed through regular United Nations channels. Member States were asked to reply before 15 February 1995. A reminder to Governments was sent out by the Secretariat shortly before the deadline for submissions. In addition, the international non-governmental organizations constituting the panel of experts were asked by the Special Rapporteur to distribute the letter to their national members. A total of 38 replies was received from Governments. Only four replies were transmitted by non-governmental organizations.

53. Thirty-eight submissions only is, of course, a very disappointing result. The questions were of such a nature that it would not have taken much time to formulate a reply. Such a low response rate seems, however, to correspond well with earlier experience within the Secretariat concerning questionnaires sent to Member States on disability matters. Bearing that experience in mind, it was decided to extend the efforts to encourage Governments and non-governmental organizations to reply by sending reminders to all concerned and by using the contacts already made. As it can be seen from the response rate in connection with the second survey, the efforts were successful.

### 2. Second survey

54. In order to make a more accurate assessment of the worldwide implementation of the Standard Rules, the Special Rapporteur decided, in consultation with the panel of experts, to carry out a second survey among the Member States and national non-governmental organizations in the disability field. The purpose of the survey was threefold: (a) to assess the level of implementation; (b) to identify main changes and accomplishments in the field of disability; (c) to identify major problems and obstacles encountered during the implementation process.

55. The preparations began in August 1995, and the report on the survey was completed in December 1996. A questionnaire was elaborated, which requested information on five areas: general policy, legislation (rule 15); accessibility (rule 5); organizations of persons with disabilities (rule 18); and coordination of work (rule 17). Given the variations in economic, political and cultural conditions that exist among Member States, it was a rather complicated task to

draft the questionnaire, and it is hardly surprising that certain questions required a broad interpretation.

56. The questionnaire was transmitted in December 1995 to all Governments and to the approximately 600 national member organizations of the six international organizations constituting the panel of experts. Information was enclosed stating that the objective was to identify the official policy of the country. It was pointed out that the questionnaire focused specifically on the nature and scope of the implementation of the Rules undertaken principally through legislative action, administrative rules or regulatory measures.

57. By August 1996 the survey had generated 83 responses from Governments, which might be considered as a considerable number of replies.

| Replies | Number | Response rate (percentage) |
|---|---|---|
| Governments | 83 | 45 |
| NGOs - Organizations | 163 | 27 |
| NGOs - Countries | 96 | .. |

58. It may be noted that replies were received from the Governments of 30 countries from which there was no response from non-governmental organizations. Conversely, replies from non-governmental organizations were received from 43 countries whose Governments did not reply. In total, 126 countries were covered by the survey.

59. It is encouraging to note that the survey has resulted in extensive and essential disability data, which will be of great importance in understanding the progress achieved in the area of disability policy. In the following paragraphs some selected findings are presented from the analysis of Government replies. Because of a constant flow of incoming replies, analyses of the data could not be started until late August 1996. Therefore, time has not made it possible to analyse the material in its entirety. It is intended to continue the work and to publish a report including both Government replies and replies from non-governmental organizations, as well as comparative studies of the replies.

(a) General policy

60. An officially recognized disability policy is essential for the attainment of equality of opportunity. One aim of the questionnaire was to identify the existence of such a policy and the effect given it. The existence of a disability policy can be measured, inter alia, by the extent to which relevant legislation has been enacted and information campaigns have been undertaken.

61. In question 1 the respondents were asked to indicate whether there is an officially recognized disability policy. In the majority of countries, that is, 70 of the 82 countries providing information on that issue, there is such an officially recognized policy. Only 11 Governments, ten of which are of developing countries, reported that they do not have such a policy.

62. In 10 countries the officially recognized disability policy is not expressed in law, but in guidelines and/or in different policy documents.

63. In question 2 the respondents were asked to indicate where the emphasis in the national disability policy lies. The aim was to find out whether disability policy focuses on a welfare approach, on accessibility or on anti-discrimination measures. When individual support is given more emphasis, the Special Rapporteur's interpretation is that the disability policy is of a more traditional welfare-oriented type. When accessibility or anti-discrimination law gets the main emphasis, the Special Rapporteur considers the disability policy to be more human-rights oriented. As the survey indicates, countries place the highest importance on rehabilitation and prevention (that is, a welfare approach), while less emphasis is given to accessibility measures and anti-discrimination law. This could be considered an indication that many countries have not yet implemented the Standard Rules. It could also be explained by greater difficulty to organize and finance this kind of measure. Unquestionably, the more traditional welfare approach to disability is still very widespread.

64. In question 3, on general policy, respondents were asked to indicate whether, since the adoption of the Rules, the Government has done anything to initiate and support information campaigns, conveying the message of full participation for persons with disabilities. Sixty-four of the 79 Governments providing information reported that they had conveyed that message through various methods.

65. Of course, the actions taken by the Governments vary. The most frequent measures mentioned are translation of the Rules, translation and publication into a large print version, development of educational materials in order to raise the awareness of the public, television and radio programmes conveying the message of full participation, support to research projects, support to non-governmental organizations advocating the message of full participation, advertisements in newspapers and donations to support the work of the Special Rapporteur. As many as 15 Governments reported that they have not done anything in this area since the adoption of the Rules, a fact that is rather astonishing, as three years have passed since they were adopted. To make the Rules known is after all the easiest and the least costly measure of all.

(b) Legislation: rule 15

66. In order to present a broad picture of national legislation concerning the rights of persons with disabilities, the second survey reviewed general aspects of legislation. Question 4 aimed at finding out whether the Government had enacted rights legislation to protect individuals and groups from discrimination on the basis of disability. Such action can be carried out by general legislation, special legislation or a combination of the two. The provisions in general legislation are intended to apply equally to all persons, regardless of disability. Special legislation draws attention to the particular needs of persons with disabilities and creates specific protections. Special legislation is often advocated when general legislation fails to provide sufficient protection. It can be maintained that special legislation is stronger, since it specifically refers to the needs and rights of persons with disabilities.

67. As the results indicate, the most common procedure is to use both special and general legislation or a combination of the two. Fifty-six Governments replied that there are specific amendments referring to disabled persons' rights within general legislation. Ten Governments reported that the rights of persons with disabilities are protected only by special legislation, and 17 Governments reported that those rights are protected only by general legislation. The great diversity among these countries indicates that the level of social and economic development or legal tradition cannot play an essential role in the choice of legislation.

68. In question 5 the aim was to determine whether there are mechanisms to protect the citizenship rights of disabled persons. Judicial mechanisms, as well as administrative and other non-judicial bodies, are the institutional arrangements through which citizenship is protected. The protection of the rights of disabled persons depends to a large extent on the enforcement mechanism built into the legislation. Unless objections can be raised through judicial mechanisms or non-judicial bodies, laws remain ineffective. As the results showed, the status of persons with disabilities in relation to the enforcement mechanisms is not always clear.

69. In the majority of the 81 countries providing information, mechanisms have been adopted to protect the rights of persons with disabilities. The most common judicial mechanism is legal remedy through the courts, while the most common non-judicial mechanism is a governmental body (administrative). Sixteen Governments reported that they do not have any judicial mechanism. In two countries there are neither judicial nor non-judicial mechanisms/arrangements to protect the rights of disabled persons, which is a serious infringement of their human rights (see the International Covenant on Civil and Political Rights, article 2, paragraph 3, and articles 16 and 26).

70. In question 6 the aim was to ascertain whether general legislation applies to persons with disabilities and their right to equal protection under the law, or whether disability is a cause for differential treatment. The results showed that in 27 of the 80 countries providing information, persons with disabilities are not considered to be full-fledged citizens in a number of areas within the general legislation, including the right to vote, the right to property, the right to privacy. In 55 countries disability is not used as a basis for differential treatment.

71. The results indicated that disabled persons in 10 of the 80 countries providing information are not guaranteed by law the right to education and the right to employment. In 17 countries the right to marriage is not guaranteed by law; in 16 countries the rights to parenthood/family, access to court of law, privacy and property are not guaranteed by law, and in 14 countries persons with disabilities have no political rights. As regards exclusion from the right to marriage, parenthood/family, access to court of law, property and political rights, they are all examples of the discrimination that occurs through legislation and regulations. Legislation may actually prevent disabled persons, in particular, those with mental disabilities, from exercising those rights. For instance, in some countries the laws governing property exclude disabled persons from owning property. There may also be legal provisions that prevent disabled persons from entering into contracts in their own names. This seems to

be legally sanctioned discrimination, which those Governments have established in their legislation (see the International Covenant on Civil and Political Rights, articles 17, 23 and 25 and the International Covenant on Economic, Social and Cultural Rights, article 12).

72. In question 7 the aim was to study the existence of legislation concerning a number of benefits, such as health services, social security, rehabilitation and employment. In 4 of the 82 countries providing information, no benefits at all are guaranteed by law to persons with disabilities. In 33 countries all of the aforementioned benefits are guaranteed by law, while in the remaining 49 countries one or more of those benefits are not guaranteed by law. In 10 countries the right to health/medical care is not guaranteed. In 14 countries the right to training, rehabilitation and counselling is not guaranteed by law. In 24 countries the right to financial security, in 27 countries the right to employment and in 34 countries the right to independent living and the right to participation in decision-making are not guaranteed by law. Thus, in most countries one or more of those social security and welfare services are not within the legal framework guaranteed to all citizens.

73. When comparing the information in questions 6 and 7, it can be noted that Governments are more advanced in establishing laws that guarantee civil and political rights than they are in establishing laws that guarantee the social and economic rights. Persons with disabilities are significantly disadvantaged in many societies. Many of the social and economic conditions they experience reflect a basic lack of equality that can be traced back to a weak legal basis.

74. When comparing questions 6 and 7 with question 4, it can be concluded that a correlation exists between general legislation and a weaker protection of citizenship rights for persons with disabilities. When the rights of persons with disabilities are protected only by general legislation, there are several citizenship rights (political rights, the right to marriage, the right to parenthood/family), as well as several social and economic rights (financial security, employment, independent living) that are not guaranteed by law. This trend could be found in 13 of 17 countries reporting only general legislation. Only in four countries could exceptions be noticed to the trend that general legislation is sufficient to protect the citizenship rights of persons with disabilities.

75. In question 8 the aim was to ascertain whether new legislation concerning disability has been enacted since the adoption of the Rules. In the majority of the countries (44 of 83 countries providing information) no new legislation concerning disability has been enacted since the adoption of the Rules. However, several Governments (47 per cent) have recently adopted legislation that protects persons with disabilities against discrimination and other forms of unjust treatment.

(c) Accessibility: rule 5

76. In the area of accessibility, two major aspects must be considered - access to the physical environment and access to information and communication. Accessibility is taken for granted by the general population in such areas as housing, transportation, education, work and culture. Without an accessible

physical environment and access to information, it becomes difficult to exercise both political and social rights. Accessibility is therefore a prerequisite for achieving the goal of full participation for persons with disabilities.

77. Questions 9 and 10 aimed at finding out whether there are laws and/or regulations concerning the built environment. Twenty-three of the 83 Governments providing information reported that there are no standards which require accessibility to the built environment.

78. In most countries there are standards that ensure accessibility to public places. But in 42 per cent of the countries only are there public means of transportation accessible to persons with disabilities. Thus, accessibility to public places is in practice much lower, since without transportation it is difficult to have access to buildings.

79. In question 12 the aim was to determine what measures have been promoted by Governments in order to facilitate accessibility in the built environment. As the study shows, providing special parking lots and installing automatic doors, lifts and accessible toilets for persons with physical disabilities are the most frequently promoted measures. The least frequent measures are the use of special lighting and contrasting colours for the visually impaired. Eighteen of the 81 Governments providing information reported no measures at all to facilitate accessibility to the built environment.

80. In question 13 the aim was to determine whether any special transport arrangements exist for persons with disabilities and for what purposes special transport is available. In 26 of the 82 countries providing information there are no special transport arrangements, not even reduced prices on public transport in urban areas. Special transport arrangements vary to a great extent. The survey indicated that special transport, when available, is most often provided for the purpose of education and less frequently for recreational purposes.

81. Question 14 aimed at determining impediments when planning to build accessible environments. A number of obstacles were listed and Governments were asked to rate the most difficult ones. The results indicated that the three main obstacles to adaptation of the built environment to the needs of disabled persons are economic/budgetary factors, attitudinal factors and the lack of enforcement mechanisms. Surprisingly, attitudinal factors are considered by many as a major obstacle to accessibility measures.

82. Question 15 aimed at determining whether there is a disability awareness component incorporated into the training of planners, architects and/or construction engineers. The findings indicated that in the majority of the countries (42 of the 78 countries providing information) there is no such awareness component in training programmes.

83. The information and communication rights of persons with disabilities were addressed specifically in questions 16, 17 and 19. Of particular importance is to create measures that make information and communication accessible to deaf, deaf-blind and visually impaired persons.

84. In question 16 the aim was to ascertain the status of sign language in Member States. Our survey indicated that in 26 of the 80 countries providing information, sign language is not used in the education of the deaf and is not the main means of communication between deaf persons and others. In 15 countries it is used as the first language in the education of the deaf, and in 15 countries it is used as the main means of communication between deaf persons and others, but not as the first language in the education of the deaf.

85. Questions 17 and 18 concerned measures taken by Governments to encourage media and other public information providers to make their services accessible to persons with disabilities. Such services include text on television, news in sign language, interpretation in sign language of other programmes, large-print editions of newspapers, text telephones for the deaf and interpretation of theatre plays in sign language. The findings indicated that about 50 per cent of the countries providing information had not taken any measures to encourage the media to make their services accessible. Likewise about 50 per cent of the countries reported that no measures had been taken to encourage other public information providers to make their services accessible.

86. In question 19, the aim was to determine which services are provided in order to facilitate information and communication between persons with disabilities and others. The results showed that 71 of the 81 countries providing information provide literature in Braille or tape and 45 countries provide news magazines on tape or Braille. Thirty-four countries provide sign language interpretation for any purpose and 25 countries provide large-print readers. It is apparent that services to different groups of persons with disabilities vary considerably. Services to blind and visually impaired persons receive the most attention, while services to the deaf and to persons with mental disabilities are more limited.

(d) Organizations of persons with disabilities: rule 18

87. According to rule 18, the activities concerning the implementation of the Standard Rules should be carried out in cooperation between national authorities and organizations of persons with disabilities. It is an important principle of democracy that individuals should be involved in decision-making concerning themselves. In this context, organizations of persons with disabilities represent the experiences and aspirations of their members. Such organizations can provide decision-makers with insight into, and knowledge of, the problems, needs and requirements of persons with disabilities.

88. Question 20 concerned the existence of an umbrella organization, that is, a joint organization of different organizations of persons with disabilities. Sixty-three of the 81 countries providing information reported that a national umbrella organization existed. Eighteen countries reported that there is no umbrella organization. In the countries where the umbrella exists, most organizations of persons with disabilities are represented.

89. Regarding the existence of legal provisions that mandate the representatives of these organizations to participate in policy-making and to work with governmental institutions (question 21), the results were as follows: In 31 of the 80 countries providing information (39 per cent), there are no

legal provisions. In 49 countries (61 per cent) there are such legal provisions.

90. Question 22 aimed to determine if and how often the views of organizations of persons with disabilities are taken into account. In 37 of the 80 countries providing information, organizations are always consulted when preparing laws, regulations and/or guidelines with a disability aspect. In 24 countries their views are often taken into account. In 18 countries their views are sometimes taken into account, and in one country the views of the organizations are never taken into account.

91. As the results of question 23 showed, consultations take place most often at the national level, less often at the local level and least often at the regional level.

92. Question 24 aimed to ascertain whether the Government gives any support and what kind of support is given. In 65 of the 80 countries providing information, organizations of persons with disabilities receive financial support from their Governments. In nine countries organizations receive only organizational/ logistic support, while in five countries organizations do not receive any support at all.

93. Question 25 tried to measure the extent to which persons with disabilities participate in political and public life. Respondents were asked to evaluate on a scale of one to five the extent to which persons with disabilities participate in five different areas of public life: Government; legislatures; judicial authorities; political parties; and non-governmental organizations. The level of participation could be evaluated on a scale ranging from very limited to considerable.

94. The results showed that persons with disabilities participate to a very limited extent in Government, legislatures and judicial authorities, but to a great extent in non-governmental organizations. It is interesting to note that participation in political parties scored next after non-governmental organizations.

95. Question 26 aimed at pointing out the role played by organizations of persons with disabilities. The organizations most often help to raise public awareness, to mobilize persons with disabilities and to advocate for rights and improved services. Least often their role is to promote/organize income-generating activities.

(e) Coordination of work: rule 17

96. Disability is a multidisciplinary and multidimensional issue that concerns all spheres of society. There is therefore a constant need for coordination between all parties concerned in developing disability policy and programmes.

97. In questions 27 and 28 the aim was to find out whether there is a national coordinating committee or similar body and to whom it reports. Sixty-two of the 84 countries providing information reported that a coordinating committee or

similar body had been established, while 22 countries (26 per cent) reported that they did not have a national coordinating committee or a similar body.

98. Regarding the authority to which the coordinating committee reports, in 39 of the 57 countries providing information, the coordinating committee reports to the Ministry of Social Affairs or some other Ministry. In 12 countries the coordinating committee reports to the Prime Minister's Office, while in six countries the coordinating committee reports to other authorities.

99. In question 29 the aim was to determine what organizations and/or authorities are represented in coordinating committees. Organizations of persons with disabilities are represented in the coordinating committees in a majority of the countries. It is less common for representatives of the private sector to be included in the coordinating committees.

100. With questions 30 and 31 the aim was to ascertain whether the coordinating committee is expected by the Government to participate in policy development and to perform other tasks, for instance, evaluation and provision of services. In 51 of the 55 countries providing information, the coordinating committee is expected to participate in policy development. In 42 of the 53 countries providing information, the coordinating committee is expected to perform other tasks. In only 11 of the 53 countries providing information is the coordinating committee not expected to perform other tasks.

101. Question 32 concerned the effects of the establishment of the coordinating committee. It has been very effective in improving coordination of measures/programmes and in improving dialogue. The establishment of a coordinating committee has not, according to the results, led to more accurate planning or more effective use of resources. Eight of the 59 countries providing information on this issue reported that it is too early for assessment.

102. The last question asked for the effects of the Rules on the approach to disability policy. Fifty of the 59 Governments providing information (that is, 85 per cent) reported that the adoption of the Rules has lead to rethinking in disability policy. Nine Governments reported that the adoption of the Rules had not led to any rethinking. Twenty-three Governments did not answer the question and three countries reported that it was too early for an assessment of the effects of the Standard Rules.

103. When a Government answers that the adoption of the Rules has not led to rethinking, it does not necessarily mean that the approach to disability is in conflict with the philosophy expressed in the Rules. It can also mean that the guidelines in the Standard Rules are very similar to the guidelines in the country's disability policy.

## C. Related survey - education: rule 6

104. The fact that persons with disabilities live a more or less segregated life depends to a major extent on the shortcomings of social systems. One of the most important of these is the educational system. There is a close

relationship between the level of education and integration into society. Education lightens the burden of various forms of social disadvantage and opens the door to better living conditions. Education of persons with disabilities is consequently one of the most essential target areas of the Standard Rules.

105. To understand the contents of the Rule on education it is necessary to consider it in the context of three other important documents that preceded the Standard Rules and one document that followed their adoption. These other documents are the United Nations Convention on the Rights of the Child (1989), the World Programme of Action Concerning Disabled Persons (1982), the World Declaration on Education for All (1990) and the Salamanca Statement and Framework for Action on Special Needs Education (1994).

106. The Salamanca Statement, the most recent of those documents, builds upon and develops further the ideas formulated in rule 6 and makes them more precise. It is a powerful instrument proclaiming inclusive education as the leading principle in special needs education. It states that those with special educational needs must have access to regular schools that should accommodate them within a child-centred pedagogy capable of meeting these needs. Inclusive education is regarded as the most effective means of combating discriminatory attitudes and is believed to provide an effective education to the majority of children and improve the efficiency and ultimately the cost effectiveness of the entire educational system.

107. Many countries are now taking steps to implement the guidelines in the Standard Rules. One major problem is the maintenance of a segregated system of education - one "regular" educational system for the non-disabled and one separate system of special education for persons with disabilities.

108. Since 1980, UNESCO has collected global information on practice in the field of special education. In 1993-1994 the latest UNESCO review was presented, entitled "Review of the Present Situation of Special Education", which covers issues on policies, legislation, administration, organization, teacher training, financing and provisions for special needs education. The material is very useful in measuring the implementation of rule 6 on education in the Standard Rules. In monitoring rule 6 the Special Rapporteur has studied the findings of the review. He has also had access to a previous UNESCO review on special education legislation (1991). In the following paragraphs, he has selected some results and observations based on those two reviews, which are important for understanding the situation in the field of education.

109. The 1993-1994 review is based on information collected through a questionnaire that was sent to 90 Governments. Sixty-three Governments responded. (In the case of Australia and Canada, two separate replies were received, which explains the total of 65 replies).

### 1. Legal regulation of the right to special education

110. The right to education is denied millions of children with special educational needs, who either receive inadequate and inappropriate public education or are excluded from the public school systems. Although many

developing countries have recognized the right to education, it has in many cases not been applied to persons with special educational needs.

111. Sixty-five countries provided information on legislation. Forty-four countries reported that general legislation applied to the children with special educational needs. Thirty-four countries reported that children with severe disabilities were excluded from education. In 18 of the 34 countries reporting exclusion, those children were excluded by law from the public educational system. In 16 countries the exclusion was the result of other, non-legal factors. The most common reason given for excluding some children from the public education system was the severity of the disability, lack of facilities and trained staff, long distances to schools and the fact that regular schools do not accept pupils with special educational needs. Ten countries reported that no legislation on special education exists.

### 2. Parents' role

112. One question in the UNESCO questionnaire tried to ascertain what formal rights parents have in assessment procedures and decision-making with respect to placement of children with special educational needs. In 22 of the 53 countries providing information, the parents' role is fully recognized in decision-making concerning placement. In seven countries parents only have the right to appeal decisions concerning their child's placement. In 24 countries, however, parents' involvement in decision-making and their right to choose placement in special education is severely limited.

### 3. Education forms and the issue of integration

113. From the information presented in the 1993-1994 review, it may be tentatively concluded that schooling for the children with special educational needs is still predominantly provided in a segregated educational system and that the rates of attendance in schools of persons with special educational needs is very low in numerous countries. It was found, for instance, that in 33 of the 48 countries providing information, fewer than one per cent of pupils are enrolled in special educational programmes. Thus, in most countries integration represents an aspiration for the future. The UNESCO review indicates, when compared to a review concerning the period 1986-1987, that some progress towards the goal of integration into regular education has been achieved.

### 4. Special education legislation

114. In 1991 UNESCO requested Governments to report on the position of their law concerning special education. The request for information for that study was sent to 70 countries, of which 52 responded.

115. The aim was to identify the type of existing special education legislation and what it covers. A few important findings from that study are as follows:

(a) In sixteen out of fifty-two countries providing information, special education is financed totally by the State and/or local authorities;

(b) Only in ten of fifty-two countries are disabled children in regular schools expected to follow the regular school curriculum, using the learning methods suitable for their individual needs;

(c) In the majority of countries, the Ministry of Education is responsible for the organization of special education services.

116. In an increasing number of countries, the Ministry of Education is responsible for the organization of special education, while the responsibility for the implementation and evaluation of such education is borne by federal States or local authorities. In some countries the responsibility for organization is shared among several Ministries. In one country there is a division of responsibility between the Ministry of Education, for children with moderate disabilities, and the Ministry of Welfare, for those with severe disabilities.

## D. Related survey - employment: rule 7

### 1. Summary of rule 7

117. One of the most important fields for action in disability policy concerns the creation of equal job opportunities. Without success in that area, it will not be possible to achieve the overall goal of full participation. The essence of rule 7 on employment is that persons with disabilities should be empowered to exercise their right to gainful employment, and that it is the responsibility of States to remove all remaining obstacles to employment. The aim should always be for persons with disabilities to obtain employment in the open labour market. For persons with disabilities whose needs cannot be met in open employment, small units of sheltered or supported employment may be an alternative.

118. The following quotations further illustrate the contents of rule 7:

(a) "Laws and regulations in the employment field must not discriminate against persons with disabilities and must not raise obstacles to their employment" (para. 1);

(b) "States should actively support the integration of persons with disabilities into open employment" (para. 2);

(c) "States, workers' organizations and employers should cooperate with organizations of persons with disabilities concerning all measures to create training and employment opportunities ..." (para. 9).

119. The text also contains several examples of various technical measures that could be taken by Governments in order to achieve those objectives.

120. Equal opportunities and the integration of disabled persons into the community are also the objectives of Convention No. 159, adopted by ILO in 1983,

which is in conformity with the provisions of rule 7 on employment in the Standard Rules. In fact, rule 7 was formulated on the basis of that Convention.

## 2. ILO Convention No. 159

121. Convention No. 159 provides for vocational rehabilitation measures for all categories of disabled persons and for promotion of employment opportunities and equal treatment of disabled men and women. The Convention also requires that member countries, when formulating and implementing policies, should consult organizations of disabled persons.

122. When the survey was made at the beginning of 1996, 54 countries had ratified the Convention.

123. The distribution of those countries is as follows:

(a) Industrialized countries - 14;

(b) Countries in the Middle East and North Africa - 5;

(c) Countries in transition - 11;

(d) Countries in Latin America and the Caribbean region - 13;

(e) Countries in sub-Saharan Africa - 8;

(f) Countries in South Asia, East Asia and the Pacific - 3.

124. In accordance with article 22 of the ILO Constitution ratifying member States must submit an annual report to the International Labour Office. In the report member States must give information about all the measures taken for the purpose of giving effect to the Convention.

125. A Committee of Experts on the Application of Conventions and Recommendations is appointed by the Governing Body of ILO. The Committee's main task consists of examining the reports submitted by Governments. ILO may write to Governments and request them to provide additional information.

126. In order to assist the Special Rapporteur in monitoring rule 7 on employment, ILO made country reports and communications between Governments and the Committee of Experts available for his analysis. He has studied six articles of the Convention that are close to the contents of rule 7 on employment. Following are a few general observations concerning the compliance by ratifying countries with requirements under some of the articles:

(a) Eleven of the 54 countries have not yet supplied any Government report;

(b) Eleven countries, mainly industrialized countries, have given effect to the Convention through various measures based on legislation. In those countries the Convention is considered by the ILO to be applied in its entirety;

(c) In seven countries measures concerning consultations and cooperation with representative organizations of disabled persons have not been ensured;

(d) In three countries there are no measures to enable disabled persons to gain and maintain employment;

(e) In 10 countries measures concerning vocational rehabilitation and employment services in rural areas and remote communities have not been ensured;

(f) In eight countries measures to provide qualified vocational rehabilitation staff have not yet been taken;

(g) In 16 countries the legislation is insufficient to guarantee full application of the Convention, or the Convention is deemed to be applied to a very limited extent. In one country the Convention is deemed not to be applied. In one country the information supplied is insufficient to assess the compliance of national policy and practice with the requirements of the Convention. In one country the existing legislation is insufficient to serve as a framework for national policy.

127. To summarize, the measures that are least implemented concern vocational rehabilitation in rural areas, cooperation with organizations of persons with disabilities and availability of qualified staff. That implies that a considerable number of disabled persons do not receive appropriate training. The role played by organizations of persons with disabilities in representing their groups in an advisory capacity has not yet been recognized in many countries. The lack of training of staff in vocational rehabilitation is a serious shortcoming in many countries, which leads to lower quality in training programmes.

128. The measure that is implemented in almost every country concerns anti-discrimination provisions in the employment field, that is, the same principles should apply to the treatment of disabled workers and of workers generally.

## VI. CONCLUSIONS AND RECOMMENDATIONS

129. The purpose of the United Nations Standard Rules is to provide guidance to Member States concerning policies and measures to achieve the goal of "full participation and equality". That goal brought a new dimension to disability policy when it was launched 15 years ago. It drew attention to the surrounding society and inevitably brought up the human rights aspect of disability policy.

130. The recommendations in the Standard Rules are very progressive and, in the opinion of the Special Rapporteur, no country, not even among the most advanced countries, has fully implemented the Rules. Nonetheless, there is no doubt that the rules, in the short time since their adoption, have been widely accepted and are being used as the main policy guidelines in the disability field both by Governments and non-governmental organizations.

131. The Rules have been used by Governments in three main ways: as a basis for new legislation; as guidelines for national plans of action; and as a basis for evaluating policies and programmes. One important and encouraging signal concerning the use of the Rules is the fact that so many Governments (83) and non-governmental organizations (163) replied to the Special Rapporteur's second survey.

132. The survey shows that a majority of Governments (85 per cent of those providing information) indicate that the Rules have led to a rethinking of policies. It must not be forgotten that the majority of Governments of Member States, as far as it is known, may not yet have started to use the Rules. Among the international non-governmental organizations the Rules are widely being used for advocacy, for new initiatives and in training programmes. On the national level the use of the Rules varies to a great extent among organizations.

133. In summary, the foregoing indicates that measures to make the Rules known must continue and be strengthened on both the national and international levels.

134. On the international level it is obvious that United Nations specialized agencies with involvement in the disability field are familiar with the Standard Rules. ILO, UNESCO and WHO have cooperated with the Special Rapporteur in his monitoring task. Those specialized agencies, however, have their own guidelines in the disability field, which, of course, play a more visible role in their development work. Generally, it can be said that there are no conflicting ideas or approaches between the Standard Rules and those other documents. The role of the Secretariat as focal point in support of the implementation of the Standard Rules should be further developed. The cooperation between the Secretariat and the specialized agencies in efforts to guide Member States in their policy development should be better coordinated. A form of inter-agency mechanism should be established, which could improve coordination and identify areas for cooperation and joint action.

135. In the area of development cooperation the Special Rapporteur finds the situation less satisfactory. He has not found any serious effort, either in UNDP or in inter-governmental institutions for development cooperation, to integrate disability measures into their mainstream activities. That is also true concerning such international financial institutions as the World Bank and regional development banks, among others. Owing to this lack of commitment, there is a great risk that disability measures ones again will be left out or marginalized in those development programmes launched in response to the United Nations follow-up plan to the World Summit for Social Development. It would, for instance, be extremely discouraging if programmes for poverty eradication were to be launched without measures to support persons with disabilities. To strengthen and integrate disability measures into the mainstream of technical cooperation, including UNDP, the World Bank and other financial institutions, is one of the most urgent measures of all in the future implementation of the Standard Rules.

136. From the talks he held with Governments and organizations of persons with disabilities, his participation in international conferences and the extensive information received through the second survey, the Special Rapporteur can make a number of observations concerning how far the implementation of the Rules has

advanced. According to the second survey, 85 per cent of Governments providing information state that they have an officially recognized policy. A majority of countries put the main emphasis on rehabilitation and prevention. That seems to indicate that in most countries with an officially recognized policy, the Standard Rules have not yet led to a broadening of their policies to include accessibility and participation measures also. Advisory services and support to Governments in their efforts to develop disability policies based on the Standard Rules should be strengthened. That action should be carried out through the specialized agencies within their mandate and the Secretariat.

137. One striking result is the weak protection of the human rights of persons with disabilities in many countries. The results of the survey indicate that violations of those rights on account of disability occur in a number of human rights areas. The situation seems somewhat better in the area of civil and political rights than in the area of economic, social and cultural rights. Therefore, the activities initiated by different entities within the United Nations human rights sector and the cooperation between them and the non-governmental organizations in the disability field should be continued and developed further.

138. In the field of education, UNESCO adopted the Salamanca Statement and Framework for Action after the adoption of the Standard Rules. That document, together with rule 6 on education, provides excellent guidance for educational policies in the disability field. One main reason for the marginalization of persons with disabilities is lack of or inappropriate education. UNESCO studies show that in many countries less than one per cent of children with special educational needs receive education. In nearly 50 per cent of countries providing information, those children are excluded from education, either by law or for such other reasons as severity of disability, lack of facilities, long distances and refusal by the regular schools to accept children with special educational needs.

139. When children with special educational needs receive education, most often it is through a separate system of special education. An integrated approach, providing adequate support and accessibility in regular schools, seems far away in many countries. As the right to education is a fundamental human right, it is necessary for all Governments to provide appropriate education for children and adults with special educational needs. Conditions should be created for UNESCO to give more vigorous support to Governments in this area.

140. The most telling confirmation of success in disability policy would be the achievement of employment rates similar to those for the general population. That does not occur in any country in the world. On the contrary, States with advanced welfare systems also report employment rates for persons with disabilities far below those for the labour force generally.

141. Rule 7 on employment and ILO Convention No. 159, adopted in 1983, give clear guidance for measures to create job opportunities. It is a disheartening fact that, at the end of 1996, only 56 countries had ratified the ILO Convention, adopted 13 years ago. Unfortunately, the Special Rapporteur's study also shows that many Governments, having ratified the Convention, fail to comply with important parts of the requirements. Governments that have not yet

ratified the ILO Convention should do so in order to strengthen their policies and get professional assistance from ILO. Governments that have ratified the Convention should make further efforts to reflect the provisions of the Convention in their national law and practice.

142. In 1996-1997 ILO is dedicating its biennial general survey to disability and labour market policies. The results will be reported in 1998. The survey could provide a basis for a new and more effective labour market policy in the disability field. The situation in employment indicates that the present policies throughout the world fail to create equal job opportunities. ILO, in cooperation with Governments and such inter-governmental bodies as the Organisation for Economic Cooperation and Development and the European Union should take the lead in assisting Member States to formulate national policies and strategies that could lead to equal job opportunities.

143. One important dimension of disability policy, which cuts right across all spheres of society, is accessibility. In the second survey the Special Rapporteur studied this aspect. Most countries have adopted some standards for access to the physical environment. Twenty-three per cent of the countries providing information have no such standards at all. In 32 per cent of the countries there is no type of special transport arrangements. Only about 54 per cent of countries providing information have included a disability component in the training of architects and building engineers.

144. In the area of access to information and communication much remains to be done. The most established procedure here is obviously to provide Braille and talking books to visually impaired persons. Sign language for the deaf is gaining ground. In 19 per cent of the countries providing information, sign language is the first language in education. In an equal number of countries sign language is the main language used in communication between the deaf.

145. In order to achieve the goal of full participation it is necessary for all Governments to continue to develop all kinds of accessibility measures. As some industrialized countries have considerable experience in that area, international exchange of information and concrete cooperation should be encouraged.

146. The Standard Rules clearly recognize the advisory role of organizations of persons with disabilities. A strong, cooperative movement of persons with disabilities is probably the best possible guarantee of progress. In the second survey the Special Rapporteur found that 78 per cent of countries providing information have so-called umbrella organizations of persons with disabilities through which the various disability groups cooperate. In 62 per cent of the countries those organizations have a legal mandate to cooperate with Governments.

147. In 74 per cent of the countries providing information there are national coordinating committees or councils through which Governments, organizations of persons with disabilities and often others, cooperate. In almost all cases those coordinating bodies are expected to participate in policy-making.

148. In many countries there is a pattern of cooperation between Governments and organizations, which is of great importance for development in the disability field. Governments should develop further that pattern of cooperation at all levels. They should also strengthen their support to the work of organizations of persons with disabilities.

149. One obvious weakness in Government handling of disability matters is the common lack of monitoring and evaluation procedures (rule 20). That is also the situation in many industrialized countries. The United Nations should, as part of the follow-up activities to this monitoring exercise, take measures to assist Governments to build their own monitoring and evaluation mechanisms. That could be done as a task for the national coordinating councils or through separate bodies. It is important, however, that such measures be taken in cooperation with the organizations of persons with disabilities.

150. Finally, the following are some general observations about the Standard Rules as an instrument for development and change. There is no doubt that the United Nations Standard Rules have proved to be a useful tool in international efforts to achieve full participation and equality. It is true that the Rules are not legally binding, but the way in which they were elaborated in close cooperation between numerous Governments and the community of major international non-governmental organizations, should foster a strong commitment on the part of all parties concerned to promote their implementation. One great advantage is that the Rules maintain a sensible balance between suggesting firm principles and providing space for adjusting measures to varying conditions in countries. It is also important that the Rules form a part of a continuing process, started in 1981 with the observation of the International Year for Disabled Persons. All of these characteristics make the Rules a strong and useful instrument. The Standard Rules should play a significant role in policy development in years to come, as well.

151. However, there are also shortcomings. Governments have no obligation to provide information to the United Nations for monitoring activity. Because of that, very little is known about a considerable number of countries. During recent years there has been a rapid development of information and knowledge concerning the situation in the area of human rights for persons with disabilities. The human rights perspective should be more developed in the context of the Standard Rules.

152. Both the child aspect and the gender perspective are vague in the texts of the Rules. Both the needs of the child and the gender perspective should receive more attention in future implementation efforts. The Special Rapporteur also wishes to point out that there is no rule in the important area of housing and shelter, which, of course, is a shortcoming that could be redressed.

## Notes

[1] Report of the World Summit for Social Development, Copenhagen, 6-12 March 1995 (United Nations publication, Sales No. 96.IV.8), chap. 4, sect. D, para. 75 (k)).

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